

2019 Current Fiscal Year Report: Advisory Council on Employee Welfare and Pension Benefit Plans

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1. Department or Agency

Department of Labor

2. Fiscal Year

2019

3. Committee or Subcommittee

Advisory Council on Employee Welfare and Pension Benefit Plans

3b. GSA Committee No.

651

4. Is this New During Fiscal Year?

No

5. Current Charter

12/05/2016

6. Expected Renewal Date

12/05/2018

7. Expected Term Date

8a. Was Terminated During Fiscal Year?

No

8b. Specific Termination Authority

8c. Actual Term Date

9. Agency Recommendation for Next Fiscal Year

Continue

10a. Legislation Req to Terminate?

Not Applicable

10b. Legislation Pending?

Not Applicable

11. Establishment Authority Statutory (Congress Created)

12. Specific Establishment Authority

29 U.S.C. 1142

13. Effective Date

09/02/1974

14. Committee Type

Continuing

14c. Presidential?

No

15. Description of Committee Non Scientific Program Advisory Board

16a. Total Number of Reports

No Reports for this Fiscal Year

17a. Open 1 17b. Closed 0 17c. Partially Closed 0 Other Activities 0 17d. Total 1 Meetings and Dates

Purpose	Start	End
The purpose of the meeting was to receive an update from the Deputy Assistant Secretary of Labor for the Employee Benefits Security Administration and to determine and refine the topics to be addressed by the Council in 2019.	04/10/2019	04/10/2019

Number of Committee Meetings Listed: 1

	Current FY	Next FY
18a(1). Personnel Pmts to Non-Federal Members	\$0.00	\$0.00
18a(2). Personnel Pmts to Federal Members	\$0.00	\$0.00
18a(3). Personnel Pmts to Federal Staff	\$0.00	\$0.00
18a(4). Personnel Pmts to Non-Member Consultants	\$0.00	\$0.00
18b(1). Travel and Per Diem to Non-Federal Members	\$0.00	\$0.00
18b(2). Travel and Per Diem to Federal Members	\$0.00	\$0.00
18b(3). Travel and Per Diem to Federal Staff	\$0.00	\$0.00

18b(4). Travel and Per Diem to Non-member Consultants	\$0.00	\$0.00
18c. Other(rents,user charges, graphics, printing, mail, etc.)	\$0.00	\$0.00
18d. Total	\$0.00	\$0.00
19. Federal Staff Support Years (FTE)	0.00	0.00

20a. How does the Committee accomplish its purpose?

The ERISA Advisory Council represents various interest groups and advises the Secretary of Labor in matters relating to his/her responsibilities under Title I of ERISA. During 2017, the Council studied the following issues: (1) Reducing the Burden and Increasing the Effectiveness of Mandated Disclosures with respect to Employment-Based Health Benefit Plans in the Private Sector, and (2) Mandated Disclosure for Retirement Plans – Enhancing Effectiveness for Participants and Sponsors. During 2018, the Council studied the following issues: (1) Evaluating the Department’s Regulations and Guidance on ERISA Bonding Requirements and Exploring Reform Considerations and (2) Lifetime Income Products as a Qualified Default Investment Alternative (QDIA) – Focus on Decumulation and Rollovers. The Council held a series of open meetings, at which the public was invited to testify. The Council submits reports to the Secretary with recommendations based on the findings.

20b. How does the Committee balance its membership?

The Advisory Council was established pursuant to the authority in Section 512(a)(1) of the Employee Retirement Income Security Act of 1974(ERISA). Of the members appointed, three represent employee organizations, three represent employer organizations, three represent the general public, and one each from the following fields: insurance, corporate trust, actuarial counseling, investment counseling, investment management and accounting. No more than eight members of the Advisory Council may be of the same political party.

20c. How frequent and relevant are the Committee Meetings?

The ERISA Advisory Council meets at least four times a year and at such other times as the Secretary of Labor requires, per section 512(a)(1) of ERISA of 1974. The Council's continuance is mandated by law. Including a teleconference meeting, there have been 5 meetings in each Council year recently. The meetings have a full agenda and are used to hear testimony and work on the issues the Council is studying each year.

20d. Why can't the advice or information this committee provides be obtained elsewhere?

The ERISA Advisory Council is required by statute. As a body, it is unique in its composition. No other organization exists that possesses the professional and technical

diversification of views, philosophy, opinions, backgrounds and expertise found in the members of the Advisory Council. Therefore, information and advice might not be readily available from other sources.

20e. Why is it necessary to close and/or partially closed committee meetings?

Not Applicable

21. Remarks

The ERISA Advisory Council represents various interest groups and provides recommendations for carrying out the Secretary's responsibilities with respect to provisions of the Employee Retirement Income Security Act of 1974 (ERISA). No other organization exists that possesses the professional and technical diversification of views, philosophy, opinions, backgrounds and expertise found in the members of the Advisory Council. The committee reports to the Secretary of Labor through the Assistant Secretary of Labor of the Employee Benefits and Security Administration.

Designated Federal Officer

Larry I. Good Executive Secretary, Advisory Council on Employee Welfare and Pension Plans

Committee Members	Start	End	Occupation	Member Designation
Almeida, Beth	01/01/2016	12/31/2018	Principal, Cove Research	Special Government Employee (SGE) Member
Blanchett, David	06/14/2018	12/31/2020	Head of Retirement Research, Morningstar	Special Government Employee (SGE) Member
Bortz, Jason	06/14/2018	12/31/2020	Senior Counsel and SVP, Capital Research and Management Company	Special Government Employee (SGE) Member
Butash, Glenn	04/15/2019	12/31/2019	Managing Counsel, U.S. Compensation & Benefits, Nokia	Special Government Employee (SGE) Member
Butash, Glenn	04/15/2019	12/31/2021	Managing Counsel, U.S. Compensation & Benefits, Nokia	Special Government Employee (SGE) Member
Curtis, Julie	04/15/2019	12/31/2021	Retired	Special Government Employee (SGE) Member
Greenfield, Douglas	01/01/2017	12/31/2019	Partner, Bredhoff & Kaiser	Special Government Employee (SGE) Member
Haverland, Patricia	01/01/2016	12/31/2018	Retired, Vice President, Pension Fund Management for Siemens' North America	Special Government Employee (SGE) Member
Hurst, Tazewell	01/01/2016	12/31/2018	Senior Research Economist, International Association of Machinists & Aerospace Workers	Special Government Employee (SGE) Member
Johnsen, William	04/15/2019	12/31/2021	Director - Employee Benefits Law, FedEx Corporation	Special Government Employee (SGE) Member
Kerschner, Linda	06/14/2018	12/31/2020	Senior Vice President, CAPTRUST	Special Government Employee (SGE) Member
Kritz, David	06/14/2018	12/31/2020	General Attorney, Norfolk Southern Corporation	Special Government Employee (SGE) Member
Lavenberg, Robert	01/01/2017	12/31/2019	Retired Partner, BDO USA	Special Government Employee (SGE) Member
Levering, Cynthia	01/01/2016	12/31/2018	(retired) Aon Consulting Senior Vice President and Consulting Actuary	Special Government Employee (SGE) Member

Loving, Tearyn	04/15/2019	12/31/2021	General Counsel, Sheet Metal Workers' National Pension Fund	Special Government Employee (SGE) Member
Medill, Colleen	01/01/2017	12/31/2019	Robert and Joanne Berkshire Family Professor of Law, University of Nebraska College of Law	Special Government Employee (SGE) Member
O'Connor, Bridget	06/14/2018	12/31/2020	General Counsel, International Union of Bricklayers & Allied Craftworkers	Special Government Employee (SGE) Member
Reddy, Srinivas	01/01/2017	12/31/2019	Senior Vice President in Retirement and Income Solutions, Principal Financial Group	Special Government Employee (SGE) Member
Scapino, Stacy	01/01/2016	12/31/2018	Partner and Global Leader, Mercer Investments' Multinational Corporate Consulting	Special Government Employee (SGE) Member
Sellars, Andrea	04/15/2019	12/31/2021	Retired	Special Government Employee (SGE) Member
Supovitz, Marcy	04/15/2019	12/31/2021	Principal, Boulay Donnelly & Supovitz Consulting Group	Special Government Employee (SGE) Member

Number of Committee Members Listed: 21

Narrative Description

The ERISA Advisory Council represents various interest groups and provides the recommendations for carrying out the Secretary's responsibilities with respect to the Employee Retirement Income Security Act of 1974 (ERISA).

What are the most significant program outcomes associated with this committee?

Checked if Applies

Improvements to health or safety	<input checked="" type="checkbox"/>
Trust in government	<input checked="" type="checkbox"/>
Major policy changes	<input checked="" type="checkbox"/>
Advance in scientific research	<input type="checkbox"/>
Effective grant making	<input type="checkbox"/>
Improved service delivery	<input type="checkbox"/>
Increased customer satisfaction	<input type="checkbox"/>
Implementation of laws or regulatory requirements	<input checked="" type="checkbox"/>
Other	<input type="checkbox"/>

Outcome Comments

Not Applicable

What are the cost savings associated with this committee?

Checked if Applies

None	<input type="checkbox"/>
Unable to Determine	<input checked="" type="checkbox"/>
Under \$100,000	<input type="checkbox"/>
\$100,000 - \$500,000	<input type="checkbox"/>
\$500,001 - \$1,000,000	<input type="checkbox"/>

\$1,000,001 - \$5,000,000
\$5,000,001 - \$10,000,000
Over \$10,000,000
Cost Savings Other

☐
☐
☐
☐

Cost Savings Comments

Not Applicable

What is the approximate Number of recommendations produced by this committee for the life of the committee?

168

Number of Recommendations Comments

The ERISA Advisory Council (Council) has existed since 1974. Each year, the Council consults with EBSA and chooses two or three topics to study and generally makes several recommendations per topic. Since FY2002, the Council has made 168 distinct recommendations.

What is the approximate Percentage of these recommendations that have been or will be Fully implemented by the agency?

18%

% of Recommendations Fully Implemented Comments

While the agency has implemented many of the recommendations provided by the Council, EBSA does not specifically track this information in this way. There are many complications involved in such a calculation, including that many of the Council's recommendations were not for specific EBSA action but instead either stated support for actions already underway by EBSA, called for actions beyond the jurisdiction of EBSA, or necessitated statutory changes. Further, in other cases, actions recommended by the Council are currently under consideration and are in some form of completion, but have not yet been implemented. However, as mentioned above, there are many recommendations that EBSA has implemented throughout the years. For example, the 2013 Council report on Locating Missing and Lost Participants recommended the development of effective methods and guidance on searching for missing participants, including use of web search and commercial locator services. In 2014, EBSA issued Field Assistance Bulletin No. 2014-01 on Fiduciary Duties and Missing Participants in Terminated Defined Contribution Plans (the FAB). The FAB provides guidance on search steps and options for dealing with the benefits of missing participants in terminated DC plans. Furthermore, the 2013 Council recommended that if PBGC implemented a missing

participants program for terminated DC plans, then compliance with the PBGC program should be accorded safe harbor status under ERISA and it urged cooperation among federal agencies. As recommended by the Council, PBGC staff consulted with EBSA, the Internal Revenue Service (IRS) and the Department of the Treasury in developing a proposed rule which PBGC issued in September 2016. Last year, EBSA issued a Final Rule on Claims Procedure for Plans Providing Disability Benefits. The preamble to the Final Rule cites the 2012 ERISA Advisory Council report, and include quotes from those reports, in the discussion of what led to the changes. The rule states: "The Department's independent ERISA advisory group also urged the Department to reexamine the disability claims process. Specifically, in 2012, the ERISA Advisory Council undertook a study on issues relating to managing disability in an environment of individual responsibility. The Advisory Council's report included the following recommendation for the Department: Review current claims regulations to determine updates and modifications, drawing upon analogous processes described in health care regulations where appropriate, for disability benefit claims including: (a) content for denials of such claims; (b) rule regarding full and fair review, addressing what is an adequate opportunity to develop the record and address retroactive rescission of an approved benefit; (c) alternatives that would resolve any conflict between the administrative claims and appeals process and the participants' ability to timely bring suit; (d) the applicability of the ERISA claim procedures to offsets and eligibility determinations. The Department agreed that the amendments to the claims regulation for group health plans could serve as an appropriate model for improvements to the claims process for disability claims. EBSA presently is evaluating several more of the Council's recommendations for implementation.

What is the approximate Percentage of these recommendations that have been or will be Partially implemented by the agency?

20%

% of Recommendations Partially Implemented Comments

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Does the agency provide the committee with feedback regarding actions taken to implement recommendations or advice offered?

Yes ☒ No ☐ Not Applicable ☐

Agency Feedback Comments

The agency provides updates to members at the Council meetings, including information on agency actions attributable to recommendations of the Council.

What other actions has the agency taken as a result of the committee's advice or recommendation?

Checked if Applies

- | | |
|-----------------------------------|-------------------------------------|
| Reorganized Priorities | <input checked="" type="checkbox"/> |
| Reallocated resources | <input checked="" type="checkbox"/> |
| Issued new regulation | <input checked="" type="checkbox"/> |
| Proposed legislation | <input type="checkbox"/> |
| Approved grants or other payments | <input type="checkbox"/> |
| Other | <input checked="" type="checkbox"/> |

Action Comments

The agency has updated publications in several instances along the lines of Council recommendations.

Is the Committee engaged in the review of applications for grants?

No

Grant Review Comments

Not Applicable

How is access provided to the information for the Committee's documentation?

Checked if Applies

- | | |
|---------------------------|-------------------------------------|
| Contact DFO | <input checked="" type="checkbox"/> |
| Online Agency Web Site | <input checked="" type="checkbox"/> |
| Online Committee Web Site | <input type="checkbox"/> |
| Online GSA FACA Web Site | <input checked="" type="checkbox"/> |
| Publications | <input type="checkbox"/> |
| Other | <input checked="" type="checkbox"/> |

Access Comments

Committee documents are available through the EBSA Public Disclosure Room in Room N 1515, DOL Building, at 200 Constitution Ave. NW, Washington, DC. Some documents are available on the ERISA Advisory Council webpage on the EBSA website.